

**NUECES COUNTY HOSPITAL DISTRICT
BOARD OF MANAGERS
Board of Managers - Special Meeting
Wednesday, December 8, 2021 at 10:00 AM**

AGENDA

1. WELCOME

2. ROLL CALL OF BOARD OF MANAGERS

- ___ Daniel W. Dain, Chairman
- ___ Sylvia Tryon Oliver, Vice-Chairman
- ___ Belinda Flores, RN
- ___ Vishnu V. Reddy, M.D.
- ___ John E. Valls, M.B.A.
- ___ Mariana Garza, J.D.
- ___ Efrain Guerrero, Jr.

3. CALL TO ORDER, ESTABLISHMENT OF QUORUM, MEETING POSTING CONFIRMATION, AND CLOSED MEETING NOTICE

A. Call to order.

B. Establish quorum.

C. Confirm posting of Meeting's public notice in accordance with Texas Open Meetings Act, Texas Government Code, Chapter 551. 3

D. Public notice is hereby given that the Board of Managers may elect to go into Closed Meeting session(s) at any time during the meeting to discuss any matter(s) listed on the agenda when so authorized by the provisions of the Open Meetings Act, Texas Government Code, Chapter 551.

4. PUBLIC COMMENT - Persons attending in-person and wishing to comment on any item(s) on the agenda or any subject within the Board's responsibilities must sign-in on the "Agenda Item Request to Speak" form provided at the entrance of the Board meeting room at least five (5) minutes prior to commencement of the meeting. Persons attending via audio or video conference and wishing to comment on any item(s) on the agenda or any subject within the Board's responsibilities must verbally notify the presiding officer of their desire to comment when the officer calls for public comment from those attending via audio and video conference. Commenters shall limit their comments to three (3) minutes, except that Commenters addressing the Board through a translator shall limit their comments to six (6) minutes.

5. **REGULAR AGENDA** - The Regular Agenda consists of those agenda items which are non-routine, not administrative in nature, or otherwise in need of separate attention. Each Regular Agenda item will be voted upon separately if action is required:

A. Discuss and consider approval of an agreement with drug distributors 8
McKesson Corporation, Cardinal Health, and AmerisourceBergen to resolve
legal claims for their roles in the opioid addiction epidemic in Nueces
County and consider related matters. (**ACTION**)

6. **CLOSED MEETING** - Public notice is hereby given that the Board of Managers may elect to go into closed meeting session(s) at any time during the meeting to discuss any matter(s) listed on the agenda, when so authorized by the provisions of the Open Meetings Act, Texas Government Code, Chapter 551 and the Board specifically expects to go into a closed session(s) on the matters listed below pursuant to the Act, §551.071. In the event the Board elects to go into closed session(s) regarding an agenda item(s), the section(s) of the Open Meetings Act authorizing the closed session will be publicly announced by the presiding officer. Should any final action, final decision, or final vote be required in the opinion of the Board with regard to any matter considered in closed session(s), then the final action, final decision, or final vote shall be either: (a) in the open meeting covered by the Notice upon reconvening of the public meeting; or (b) at a subsequent public meeting of the Board upon notice thereof, as the Board shall determine pursuant to applicable laws:

A. Consult with attorneys on matters relating to litigation against opioid drug manufacturers, promoters, and distributors responsible for causing and contributing to an epidemic of opioid addiction in Nueces County, including but not limited to Purdue Pharma, Endo Pharmaceuticals, Janssen Pharmaceuticals, Insys Therapeutics, the McKesson Corporation, Cardinal Health, and AmerisourceBergen for violations of the Deceptive Trade Practices Act, fraud, unjust enrichment, negligence, violations of the federal Controlled Substances Act, civil conspiracy and any other related causes of action, and related matters.

7. **OPEN MEETING** - Following the Closed Meeting, the Board of Managers will reconvene the Open Meeting prior to taking any action(s) on matters considered in the Closed Meeting or adjourning the meeting.

8. Consider final action, decision, or vote on matters considered in the Closed Meeting. (**ACTION AS NEEDED**)

9. **ADJOURN**



Kara Sands

Nueces County Clerk
901 Leopard St #201
Corpus Christi, TX 78401

Main: (361)888-0580

Receipt: 20211203000088

Date: 12/03/2021

Time: 11:09AM

By: Lisa C

Station: CLERK03

Status: ORIGINAL COPY

| <u>Seq</u> | <u>Item</u> | <u>Document Description</u> | <u>Number</u> | <u>Number Of</u> | <u>Amount</u> | <u>Serial Number</u> |
|------------|---------------|-----------------------------|---------------|--------------------|---------------|----------------------|
| 1 | Public Notice | PBN | 2021000598 | 4 | \$0.00 | |
| | | | | Order Total | (1) | \$0.00 |

| <u>Seq</u> | <u>Payment Method</u> | <u>Transaction Id</u> | <u>Comment</u> | <u>Total</u> | |
|------------|-----------------------|-----------------------|----------------|-----------------------|------------|
| 1 | | | | \$0.00 | |
| | | | | Total Payments | (1) \$0.00 |
| | | | | Change Due | \$0.00 |

HOSPITAL DISTRICT BOARD OF MANAGERS

For more information about the County Clerk's office and to search property records online, please visit <http://www.nuecesco.com/county-services/county-clerk>



VG-12-2021-2021000598

Nueces County
Kara Sands
Nueces County Clerk

Instrument Number: 2021000598

Public Notice

PUBLIC NOTICES

Recorded On: December 03, 2021 11:09 AM

Number of Pages: 4

" Examined and Charged as Follows: "

Total Recording: \$0.00



STATE OF TEXAS
Nueces County

I hereby certify that this Instrument was filed in the File Number sequence on the date/time printed hereon, and was duly recorded in the Official Records of Nueces County, Texas

Kara Sands
Nueces County Clerk
Nueces County, TX

***** THIS PAGE IS PART OF THE INSTRUMENT *****

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY because of color or race is invalid and unenforceable under federal law.

File Information:

Document Number: 2021000598
Receipt Number: 20211203000088
Recorded Date/Time: December 03, 2021 11:09 AM
User: Lisa C
Station: CLERK03

Record and Return To:

HOSPITAL DISTRICT BOARD OF MANAGERS

RECEIVED

DEC 08 2021

KARA SANDS
CLERK OF THE COUNTY COURT
NUECES COUNTY, TEXAS

NOTICE OF PUBLIC MEETING
NUECES COUNTY HOSPITAL DISTRICT

BOARD OF MANAGERS

Board of Managers - Special Meeting
Wednesday, December 8, 2021 at 10:00 AM

Location:

**Board of Managers Meeting Room, 555 N. Carancahua Street, Room 950-A, Corpus
Christi, Texas 78401**

MEETING IN-PERSON AND VIA VIDEOCONFERENCE

The Nueces County Hospital District (“NCHD”) Board of Managers or a Committee thereof as specified above will hold a meeting on the date and at the time and location shown above. Entry is through the main entrance of the Tower II Office Building near the intersection of North Carancahua Street and Mestina Street. The agenda item(s) for this meeting are set forth on the accompanying page(s); agenda item(s) are not necessarily considered in the order listed.

On September 1, 2021, Governor Abbott rescinded the suspension of certain Rules of the Texas Open Meetings Act which had allowed meetings to be conducted entirely virtually. The NCHD Board of Managers meeting will be conducted in-person and also via videoconference. Public participation will be available in-person as well as via videoconference as allowed under the Open Meetings Act. It is the intent that a quorum of the Board of Managers will be physically present at the location posted in this meeting notice. Any member of the Board of Managers participating by videoconference shall be visible and audible to the public whenever the member is speaking; Board member participation by audio only is no longer permitted. Although the meeting will be open to the public during the open portions of the meeting, any member of the public wishing to observe the meeting virtually and to participate virtually in public comment, may do so through the virtual meeting link shown on this meeting notice below, as well as the Nueces County Hospital District’s website.

Meeting materials are available via NCHD’s BoardBook meeting management system at: <https://meetings.boardbook.org/Public/Organization/1886>.

Attend via Videoconference, Join Zoom Meeting:

<https://nchdcc-org.zoom.us/j/5746765992?pwd=T2RVWFpZGJYdHYyQmp1VUdZeUc3Zz09>

Meeting ID: 574 676 5992

Passcode: 195957

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(ACTION)

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SUMMARY OF PROPOSED OPIOID SETTLEMENTS

BACKGROUND

Texas, along with a broad coalition of states and subdivisions, has reached final agreements with four companies to resolve legal claims against for their role in the opioid crisis. One agreement is with opioid manufacturer Johnson & Johnson. The other is three major pharmaceutical distributors: AmerisourceBergen, Cardinal Health, and McKesson.

FINANCIAL TERMS

The two agreements provide for \$26 billion in payments over 18 years, with \$23.9 billion available for opioid abatement and significant amounts front loaded. Funding will be distributed to states according to the allocation agreement reached among the Attorneys General. Subdivisions can only participate in the agreement if their state participates. Texas' combined share is almost \$1.5 billion: \$1.17 billion from the distributors and \$268 million from J&J. Distribution within Texas is handled through an intrastate agreement between the state and litigating subdivisions. The funding must be used to support any of a wide variety of strategies to fight the opioid crisis. Separate provisions exist to compensate attorneys who have pursued opioid litigation on behalf of states and local governments.

Once the state agrees to participate, then the more subdivisions that join, the more money everyone in Texas will receive. Future opioid litigation may result in suspension and reduction of

payments. Even without full resolution of claims, states and subdivisions can still receive substantial payments by resolving a significant portion of current and future claims.

INJUNCTIVE TERMS

Both agreements both contain industry-changing injunctive terms. The distributors will be subject to more oversight and accountability, including an independent monitor, to prevent deliveries of opioids to pharmacies where diversion and misuse occur. They will be required to establish and fund an independent clearinghouse to track opioid distribution nationwide and flag suspicious orders. J&J will be prohibited from selling or promoting opioids.

HOW TO JOIN

To adopt the settlement and allocation schedule, you need to:

1. sign the Subdivision Settlement Participation Form;
2. adopt the Texas Term Sheet and its intrastate allocation schedule;
3. return both to opioids@oag.texas.gov.

The deadline for states to sign on is August 21, 2021. Subdivisions in participating states then have through January 2, 2022, to join.

FOR MORE INFORMATION, PLEASE VISIT:
www.texasattorneygeneral.gov/globalopioidsettlement



KEN PAXTON
ATTORNEY GENERAL *of* TEXAS

Global Opioids Settlement

What it means for Texas

This presentation is for informational purposes and does not constitute legal advice.

Opioids Crisis Update

- In 2020, drug overdose deaths **rose nearly 30%** in the United States to a **record high** of 93,000.
- Opioid overdose deaths hit a **record 69,000** in the United States.
- In Texas, **drug overdose deaths also increased by 31.9%**, driven primarily by opioid overdose deaths.
- The opioid overdose death increase was driven by fentanyl and other synthetic opioids.
- Attorney General Paxton's [website](#) has information to protect Texans from the nation's opioid crisis by educating them about the dangers of misusing prescription opioids.

Sources:

"Provisional Drug Overdose Death Counts." Centers for Disease Control: National Center for Health Statistics (last accessed July 23, 2021),

<https://www.cdc.gov/nchs/nvss/vsrr/drug-overdose-data.htm>

"U.S. Drug-Overdose Deaths Soared Nearly 30% in 2020, Driven by Synthetic Opioids." Betsy McKay, Wall Street Journal (July 14, 2021),

<https://www.wsj.com/articles/u-s-drug-overdose-deaths-soared-nearly-30-in-2020-11626271200>

Opioids Settlements

- On **July 23, 2021**, Attorney General Paxton announced global settlements had been reached with the three major opioid distributors **McKesson, Cardinal Health, and Amerisource Bergen (ABDC)**, and opioid manufacturer **Johnson & Johnson (J&J)**.
 - Both settlements are a combined historic **\$26 billion**.
 - The distributors' settlement is for **\$21 billion**.
 - J&J's settlement is for **\$5 billion**.
 - The settlements include injunctive relief that changes the industry.

Opioids Settlements

- Texas could receive as much as **\$1.17 billion from the distributors** and **\$268 million from J&J** for **almost \$1.5 billion**, most of which is targeted for opioid abatement.
 - The actual amount Texas receives will depend upon the participation of cities, counties, and other political subdivisions in the state.
 - Texas has 30 days to decide to join both settlements.

Opioids Settlements

- Injunctive Relief in the Settlements:
 - J&J is enjoined from manufacturing, selling, and promoting opioids for 10 years.
 - Distributors must establish a centralized clearinghouse jointly overseen by states and distributors.
 - Distributors will be required to take certain measures to detect suspicious orders.

Opioids Settlements

- Mechanics of the Monetary Settlement:
 - Texas's overall allocation is 6.29% of the Global Amount – potentially almost **\$1.5 billion** over 18 years from:
 - Distributors - **\$1.17 billion** over 18 years.
 - J&J - over **\$268 million** over 9 years.
 - Annual payments are split into base and incentive payments as follows:
 - Distributors - 55% base, 45% incentive
 - J&J - 45% base, 55% incentive
 - All incentive payments deal with preventing future litigation by subdivisions and incentivizing subdivision sign on.

Offsets and Suspension of Payments

- If a subdivision who hasn't sued decides to sue later, there is a suspension of payments and a potential offset of those payments.
- Size of the suspension and a potential offset depend on several factors, but the distributors' deal applies a maximum offset in the amount of 67% against the suspension and/or future payments.
- If that lawsuit is resolved, suspended payments resume. If the lawsuit requires payment, the amounts held are used to offset the amount paid.

Goal: Bring the Most Money to Texas

- There are a combination of approaches that Texas could take to maximize funds with the participation of litigating subdivisions and nonlitigating subdivisions.
- This can be obtained by getting releases for past and future claims from all litigating subdivisions and special districts, all general-purpose subdivisions over 10,000 population, and covered special districts.
- Texas has 128 litigating subdivisions:
 - 110 Counties.
 - 5 Cities.
 - 10 Hospital Districts.
 - 3 School Districts.
- Texas has 406 general purpose subdivisions with a population of over 10,000 (309 nonlitigating and 97 litigating).
- Currently, the best option for Texas to maximize incentive funds is through a partnership with political subdivisions, where a large percentage agree to release claims.

How Settlement Dollars Flow into Texas

- By signing on to the Settlement and executing a release, you increase the funds coming into Texas and will be entitled to a portion of the funds that Texas receives.
 - Texas and Participating Subdivisions alike get direct payments under the settlement.
 - Cities and Counties will also get funding for abatement programs from the Opioid Council.
- Question: If my county signs up and executes a release, how do I get dollars to my county?
- Answer: SB 1827 (87R) and the Texas Term Sheet

Texas Term Sheet and SB 1827

- Goal of the Texas Term Sheet: Provide Texans in **all 254 counties** with the opportunity for funding for education, prevention, and treatment of opioid abuse.
- SB 1827 (87R) codifies the Texas Term Sheet and establishes the **Texas Opioid Council (Council)** to ensure that the funds recovered by Texas are allocated fairly and spent to remediate the opioid crisis in Texas, using efficient and cost-effective methods that are directed to the hardest hit regions in Texas while also ensuring that all Texans benefit from prevention and recovery efforts.
- 85% of the funds under the Settlement will be deposited into the Opioids Abatement Trust Fund:
 - 15% to directly to subdivisions.
 - 70% share to abatement programs.

Example Opioid Fund Allocations

These amounts are estimates only based on maximum recoveries

- Assuming (1) your subdivision executes a release and signs on to the Texas Term Sheet, and (2) Texas receives maximum funds from the distributors and J&J, what kind of funding does that mean for my subdivision?

- Example 1 – direct payments to cities and counties:

| Subdivision | Distributors | J&J | Total |
|--------------------|----------------|----------------|----------------|
| Brazoria County | \$1,013,429.26 | \$232,935.37 | \$1,246,364.63 |
| City of Edinburg | \$119,977.07 | \$27,576.57 | \$147,553.64 |
| City of Houston | \$6,969,111.93 | \$1,601,841.11 | \$8,570,953.04 |
| League City | \$300,149.11 | \$68,988.87 | \$369,137.98 |
| City of Longview | \$478,635.88 | \$110,013.82 | \$588,649.71 |
| City of McKinney | \$447,004.00 | \$102,743.27 | \$549,747.27 |
| City of Odessa | \$554,967.87 | \$127,558.63 | \$682,526.50 |
| City of Round Rock | \$472,420.87 | \$108,585.31 | \$581,006.17 |
| Starr County | \$99,146.53 | \$22,788.70 | \$121,935.23 |
| City of Waxahachie | \$150,952.91 | \$34,696.33 | \$185,649.24 |

Example Opioid Fund Allocations

These amounts are estimates only based on maximum recoveries

- Assuming (1) your subdivision executes a release and signs on to the Texas Term Sheet, and (2) Texas receives maximum funds from the distributors and J&J, what kind of funding does that mean for my subdivision?

- Example 2 – Abatement allocations by Regions for Treatment Programs

| Region | Distributors | J&J | Total |
|---|------------------|-----------------|------------------|
| Region 3 (Austin, Calhoun, Chambers, Colorado, Fort Bend, Harris, Matagorda, Waller, Wharton) | \$121,270,842.23 | \$27,873,941.89 | \$149,144,784.13 |
| Region 5 (Cameron, Hidalgo, Starr, Willacy) | \$17,664,324.97 | \$4,060,121.61 | \$21,724,446.58 |
| Region 9 (Dallas, Kaufman) | \$66,659,834.77 | \$15,321,674 | \$81,981,509.18 |
| Region 15 (El Paso, Hudspeth) | \$18,039,679.50 | \$4,146,396.35 | \$22,186,075.85 |

Opioid Lawsuits Timeline (1 of 3)

- In **September 2017**, Attorney General Paxton and a **bipartisan coalition of 40 other states** served investigative subpoenas and additional requests on eight companies that manufacture or distribute highly addictive opioids to evaluate whether manufacturers and distributors engaged in unlawful practices in the marketing, sale, and distribution of opioids.
- **May 15, 2018**, Texas filed a **lawsuit against Purdue Pharma** for violating state laws against deceptive trade practices and misrepresenting the risk of addiction to patients and doctors.
- On **September 4, 2019**, Attorney General Paxton announced that a **civil Medicaid fraud lawsuit** had been filed against pharmaceutical manufacturer **Johnson & Johnson** for misrepresentations made to the Texas Medicaid program about their dangerous opioid drug, Duragesic.
- Purdue Pharma files for Chapter 11 Bankruptcy in **September 2019**.

Opioid Lawsuits Timeline (2 of 3)

- In **February 2020**, Attorney General Paxton announced a global settlement framework between state attorneys general, local subdivisions, and Mallinckrodt (MKN). MKN is currently the largest generic opioid manufacturer in the United States. In the agreement, MKN agreed to pay **\$1.6 billion in cash** to a trust that will cover the costs of opioid addiction treatment and related efforts, with the potential for increased payment to the trust.
- On **May 13, 2020**, Attorney General Paxton reached a bipartisan agreement with Texas Counties and Cities in preparation for settlement with opioid defendants: **McKesson, Cardinal Health, ABDC, and Johnson & Johnson**. Texas is one of the lead states currently negotiating financial settlements with the nation's largest companies in the opioid supply chain.

Opioid Lawsuits Timeline (3 of 3)

- In **February 2021**, Attorney General Paxton and 46 states entered into a settlement with McKinsey, a consulting firm that assisted Purdue and others with their marketing of prescription opioids, for **\$583 million and injunctive relief**. The funds are earmarked to remediate the harms caused by the opioid epidemic and to recover the costs incurred in investigating and pursuing these claims.
- On **July 23, 2021**, Attorney General Paxton announced the global settlement had been reached with opioid defendants **McKesson, Cardinal Health, ABDC, and Johnson & Johnson**.

Next Steps

- To join the Settlement, Subdivisions need to:
 - Sign on the to settlement and execute releases; and
 - Execute the Texas Term Sheet.
- The deadline to sign on is approximately 120 days after the state sign-on period, estimated January 2, 2022.



KEN PAXTON
ATTORNEY GENERAL *of* TEXAS

For more information, visit

www.texasattorneygeneral.gov/globalopioidsettlement

Questions? Email opioids@oag.texas.gov